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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/507,383

02/02/2005

Peter Mockli

11/2-22635/A/PCT

6288

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EXAMINER

POWERS, FIONA

ART UNIT

PAPER NUMBER

1626

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/507,383	Applicant(s) MOCKLI, PETER	
	Examiner Fiona T. Powers	Art Unit 1626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 13-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/13/04</u> . | 6) <input type="checkbox"/> Other: _____ |

Receipt is acknowledged of the preliminary amendment filed September 9, 2004 and the information disclosure statement filed December 13, 2004, which have been entered in the file.

Applicant's election of Group I (claims 1 to 12) in the reply filed on November 29, 2007 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 13 to 20 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on November 29, 2007.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1 and 2 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s),

Art Unit: 1626

at the time the application was filed, had possession of the claimed invention.

The specification does not describe what is encompassed by "cationic organic compounds", "a UV absorber", "a soft-handle agent for textiles", "an antimicrobial agent" and "a dye" except cationic dyes.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 to 4 and 7 to 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blass et al. (US 3956271), cited.

Determination of the scope and content of the prior art (MPEP §2141.01)

The reference discloses a process for the preparation of concentrated solutions of cationic azo dyes. The process comprises reacting sparingly soluble salts of the dye (e.g. the salt of the dye with an inorganic acid, for example the chloride, sulfate or methylsulfate) in a solvent system with a non-chromophoric carboxylate salt that is the salt of an alkali metal salt of a carboxylate (e.g. sodium acetate), the insoluble

Art Unit: 1626

or sparingly soluble metal salt of the inorganic acid formed is filtered off thereby obtaining a concentrated solution of the cationic dye which is the salt of the cationic dye with the organic carboxylate. In the concentrated solution obtained, the cationic dye salt of the organic carboxylate is more readily soluble. Note Examples 1 and 2 and column 2, line 53 to column 5, line 60. Examples of the carboxylate salt are formate, acetate, propionate, maleate, succinate, lactate and tartarate (column 4, lines 23 to 27).

Ascertainment of the difference between the prior art and the claims (MPEP §2141.02)

The process of Examples 1 and 2, the sparingly soluble salt of the cationic dye is added to a solvent which is glacial acetic acid and a crystallized alkali metal salt of the organic carboxylate (e.g. sodium acetate) is added then inorganic salt is filtered off. In the claimed process the alkali metal salt of the organic acid in a monohydric aliphatic alcohol is added to the sparingly soluble salt of the cationic organic compound. Thus in the prior art process crystallized sodium acetate is added to a solution of the sparingly soluble cationic dye whereas in the claimed process a solution of sodium acetate in a monohydric aliphatic alcohol would be added to the sparingly soluble organic compound.

Finding of prima facie obviousness---rational and motivation (MPEP §2142-2413)

Art Unit: 1626

The reference discloses that the solvent system may be a monohydric alcohol (col. 4, line 52) which is for example, methanol, ethanol, propanol, or butanol instead of glacial acetic acid. One of ordinary skill in the art would know that one could obtain a solution by adding the sparingly soluble cationic dye in a solvent to crystallized sodium acetate or by adding sodium acetate in a solvent to the sparingly soluble cationic dye. One of ordinary skill in the art would have been motivated to substitute a monohydric alcohol for the glacial acetic acid and to add a solution of the alkali metal carboxylate in monohydric alcohol to the sparingly soluble salt of the cationic dye with the expectation that concentrated solutions of the cationic dye would be obtained. The claimed process would have been rendered obvious by the process of the reference in the absence of any unobvious result.

Claims 1 to 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blass et al. (US 3956271) as applied to claims 1 to 4 and 7 to 12 above, and further in view of Mockli (US 5733343), cited.

The process of claims 1 to 4 and 7 to 12 would have been rendered obvious over Blass et al for the reasons given above. Blass et al. do not disclose the imidazolazo dyes a hyrazon dye specified in claims 5 and 6.

Art Unit: 1626

Mockli discloses the cationic dyes specified in claims 5 and 6. Note formulae (1) and (5) in columns 1 and 2 and Examples 1, 3, 4, 9-12, 31-33, 46-48 and 52-55.

One of ordinary skill in the art would have been motivated to use the cationic dyes disclosed by Mockli in the process of Blass et al. but substituting a monohydric alcohol for the glacial acetic acid and adding a solution of the alkali metal carboxylate in monohydric alcohol to the sparingly soluble salt of the cationic dye with the expectation that concentrated solutions of the cationic dyes disclosed by Mockli would be obtained.

The references made of record and not relied upon show the state of the art. The references that are crossed out on PTO-1449 are not of record in the file.

No claim is allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fiona T. Powers whose telephone number is 571-272-0702. The examiner can normally be reached on Monday - Friday 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph K. McKane can be reached on 571-272-0699. The fax phone number for the

Art Unit: 1626

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Fiona T. Powers/
Primary Examiner, Art Unit 1626

Fiona T. Powers
Primary Examiner
Art Unit 1626

ftp
March 1, 2008